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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,683	02/15/2002	James P. Hanley	G09.004	1658
28062	7590	07/14/2006		
BUCKLEY, MASCHOFF, TALWALKAR LLC 5 ELM STREET NEW CANAAN, CT 06840			EXAMINER OYEBISI, OJO O	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/076,683	Applicant(s) HANLEY ET AL.	
	Examiner OJO O. OYEBISI	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/15/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 18 is rejected under 35 U.S.C. 101 because it appears to be directed to signal, a non-statutory subject matter. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in 101.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (Franklin hereinafter, US PAT: 6,055,518) in view of Abeshouse et al (Abe hereinafter US Pub #:2002/0099643).

Re claims 1, 3, 14, 16-19. Franklin discloses a method of providing an automated rank bid sale, the method comprising: transmitting unique identifiers to a plurality of bidders, wherein each identifier is unique to a particular bidder for a particular sale of an auction item (i.e., A first requirement to achieving bidder anonymity is to remove the identity of the bidder at bidding terminals B.sub.1, B.sub.2, B.sub.3 and B.sub.n from the auction protocol of the preferred embodiment. A simple approach to achieve this is for each bidder, prior to submitting a bid, to generate a large random number r and use $h(r)$ as a pseudonym for that bid, where h is a message digest function, see col. 10 lines 40-50), wherein each bid is associated with a unique identifier (i.e., generate a large random number r and use $h(r)$ as a pseudonym for that bid, where h is a message digest function, see col. 10 lines 40-50), transmitting a description of the auctioned item to be sold (i.e., The secure auction system of the present invention provides an interface or bidding terminals by which clients or bidders can issue secret bids to the auction servers for **an advertised auction**, see summary of the invention), receiving a plurality of bids for the item to be sold (see abstract). Franklin does not explicitly disclose ranking the unique identifiers associated with each bid received according to

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the amount of the associated bid; and transmitting an indication of the ranked unique identifiers. However, Abe explicitly discloses ranking each bid received according to the amount of the associated bid (see fig.10 element 308, see pg table 1, see pg 9 table 2, 4,5); and transmitting an indication of the ranked bids (see fig.10 element 310). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to advance a bidder to a selected rank and also to beneficially encourage bidders to place a bid.

Re claim 2. Franklin discloses the method for an automated rank bid sale wherein the unique identifier comprises a paddle ID (i.e., use $h(r)$ as a pseudonym for that bid, where h is a message digest function, see col. 10 lines 40-50).

Re claim 4. Franklin discloses unique identifiers associated with each bid received according to the amount of the associated bid (see col. 10 lines 40-50). Franklin does not explicitly disclose the method for an automated rank bid sale wherein an indication of ranked unique identifiers comprises a display ordering the unique identifiers according to the descending value of a most recent bid received that is associated with each unique identifier. However, Abe discloses the method for an automated rank bid sale wherein an indication of ranked bid comprises a display according to the descending value of a most recent bid received (see fig.10 element 308, see pg table 1, see pg 9 table 2, 4,5). Thus it would have been obvious to one of ordinary skill in the art to use the ranking apparatus of Abe to rank the unique identifiers associated to each received bid in Franklin in order to advance a bidder to a selected rank and also to beneficially encourage bidders to place a bid.

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Re claim 5. Franklin discloses the method for an automated rank bid sale wherein the bidder associated with the unique identifier is kept anonymous to other bidders (i.e., A first requirement to achieving bidder anonymity is to remove the identity of the bidder at bidding terminals B.sub.1, B.sub.2, B.sub.3 and B.sub.n from the auction protocol of the preferred embodiment. A simple approach to achieve this is for each bidder, prior to submitting a bid, to generate a large random number r and use $h(r)$ as a pseudonym for that bid, where h is a message digest function, see col. 10 lines 40-50).

Re claim 6. Franklin discloses the method for an automated rank bid sale additionally comprising the steps of: logging in a bidder associated with a unique identifier and additionally associating the bidder with a network access device (i.e., The secure auction system of the present invention provides an interface or bidding terminals by which clients or bidders can issue secret bids to the auction servers for an advertised auction, see the summary of the invention); and transmitting to the network access device a visual indicator highlighting the unique identifier associated with the bidder (see col.2 line 60 to col.3 line 15, also see col.10 lines 40-50).

Re claim 7. Franklin does not explicitly disclose the method for an automated rank bid sale of wherein the login comprises receiving demographic data descriptive of the bidder. However, Abe discloses the method for an automated rank bid sale of wherein the login comprises receiving demographic data descriptive of the bidder (i.e., pre-auction data, that may include suppliers that are allowed to bid on a particular auction, see pg.4 paras 0062). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to create a secure auction environment.

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Re claim 8. Franklin does not explicitly disclose the method for an automated rank bid sale additionally comprising the steps of: generating a communication relating to a particular sale; and transmitting the communication to the plurality of bidders. However, Abe discloses the method for an automated rank bid sale additionally comprising the steps of: generating a communication relating to a particular sale; and transmitting the communication to the plurality of bidders (i.e., market feedback, see pg 5 paras 0067 in its entirety). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to encourage bidders to place additional bids to remain competitive.

Re claim 9. Franklin does not disclose the method for an automated rank bid sale of wherein the communication is customized for each bidder according to the bid ranking associated with each bidder. However, Abe discloses the method for an automated rank bid sale of wherein the communication is customized for each bidder according to the bid ranking associated with each bidder (i.e., In a certain type of online auction 56, which may be referred to as "full market feedback format," all bids 58 are visible to every bidder 30. Bids 58 are sorted from highest to lowest. Thus, each bidder 30 can assess its rank and competitive position if bidders 30 are individually identified, by comparing its current best bid 58 with other bids 58 placed in the online auction 56, see pg 5 paras 0068) Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to encourage bidders to place additional bids to remain competitive.

Re claim 10. Franklin does not explicitly disclose the method for an automated rank

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bid sale wherein the communication comprises a solicitation for a subsequent bid.

However, Abe makes this disclosure (i.e., place additional bids to remain competitive, see pg 5 paras 0067). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to encourage bidders to place additional bids to remain competitive.

Re claims 11 and 12. Franklin does not explicitly disclose the method for an automated rank bid sale additionally comprising the step of recording sale particulars. However, Abe makes this disclosure (i.e., record of active auction data and post auction data, see pg 4 paras 0062). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe in order to keep the record of the auction activities.

Re claim 13. Franklin discloses the method for an automated rank bid sale additionally comprising the step of arranging for payment relating to the sale of the auction item (see col.10 lines 20-35).

Re claim 15. Franklin discloses the method for an automated rank bid sale, further comprising: determining that the auction item will be sold to a winning bidder; and arranging for the winning bidder to provide an online payment for the auction item (see col.9 lines 52-67).

Re claim 20. Franklin does not explicitly disclose the computer implemented method for participating in a ranked bid sale additionally comprising the steps of: receiving an electronic communication at a network access device associated with the anonymous bidder identifier; and transmitting an additional bid responsive to the electronic

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communication. However, Abe discloses the computer implemented method for participating in a ranked bid sale additionally comprising the steps of: receiving an electronic communication at a network access device associated with the anonymous bidder identifier (i.e., a bid is received from a bidder that bid may be a bid that is created by a bidder and submitted to the data network from the client machine by way of the communication network, see pg 13 paras 0127); and transmitting an additional bid responsive to the electronic communication (i.e., market feedback, see pg 13 paras 0127). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to encourage bidders to place additional bids to remain competitive.

Re claim 21. Franklin discloses the computer implemented method for participating in a ranked bid sale additionally comprising the step of receiving an electronic communication indicating that the bid does not meet a minimum threshold bid amount (i.e., checking the validity of bids, see col.9 lines 38-50).

Re claim 22. Franklin does not explicitly disclose the computer implemented method for participating in a ranked bid sale wherein the ranked indication comprises multiple anonymous identifiers grouped in tiers, wherein each tier is indicative of a relative standing of a bid associated with each anonymous identifier. However, Abe discloses the computer implemented method for participating in a ranked bid sale wherein the ranked indication comprises multiple anonymous identifiers grouped in tiers, wherein each tier is indicative of a relative standing of a bid associated with each anonymous identifier (see fig.10 element 308, see pg table 1, see pg 9 table 2, 4,5). Thus it would have been obvious to one of ordinary skill in the art to combine Franklin and Abe to

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advance a bidder to a selected rank and also to beneficially encourage bidders to place a bid.

Re claim 23. Neither Franklin nor Abe discloses the computer implemented method for participating in a ranked bid sale wherein the ranked indication comprises a graphical representation of the relative standing of the anonymous identifiers according to the bids associated with each anonymous identifier. However, graphical representation of data is old and well known in the art. Thus one of ordinary skill in the art would have been motivated to use any of the well-known software packages i.e., Excel, SPSS etc to depict the bid data stated supra in a graphical form to allow for visual comparison operation in order to present a clearer view of the ranked bids which encourages bidders to place additional bids to remain competitive.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HYUNG S. SOUGH can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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